

1 Mr. Wise that identified commission rates -- sales account
2 -- do you recall that?

3 A Yes.

4 Q Was that a deal sheet?

5 A No, it was not and it was requested to create a
6 summary of what Mr. Wise had and it was --

7 Q This is Respondent's Exhibit 32 --

8 CHAIRMAN DOTY: Let Mr. Solomon see it before you ask
9 any questions. I'll ask, just to speed it along. What
10 are we looking at?

11 MR. HENDERSON: -- 9/28 --

12 CHAIRMAN DOTY: All right. Any objection, Mr.
13 Solomon?

14 MR. SOLOMON: No sir.

15 CHAIRMAN DOTY: All right. It will be admitted as
16 Respondent's 32. You may continue.

17 MR. SOLOMON: Oh actually, I'm sorry. I object to
18 9.7 and 9 -- I don't object if that's the rule. I will it
19 again that we're not saying that the recommendation Rule
20 9.9 there is no obligation in this case and the only
21 suitability obligation we are talking about at the time
22 the account is open which Mr. Stern acknowledged
23 OptionsXpress does have.

24 MR. HENDERSON: -- is --

25 CHAIRMAN DOTY: And I agree that that was the -- that

1 is the stipulation and that is where we're headed. So
2 please limit your questions to 9.7.

3 MR. SOLOMON: Thank you, sir.

4 **(Respondent's Exhibit 32, admitted into evidence.)**

5 Q (BY MR. HENDERSON): For -- purposes, Mr. Stern,
6 a letter claims that OptionsXpress -- Rule 9.7 and in
7 front of you you see the Rule 9.7. Are you familiar with
8 -- Rule 9.7(a)?

9 A Yes, I am.

10 Q Is -- Rule 9.7(a) and (b) a federally -- a clone
11 of the NASD Rule 2860(b)16?

12 A Yes, it is.

13 Q If you look at 9.7(a), what does 97(a) require
14 that a member firm such as OptionsXpress do in connection
15 with an option account approval rule?

16 A It says that the account has to be approved --

17 Q What does 9 -- say? What does 9 -- require that
18 you do before its either approved --

19 A That's -- submitting the -- information --
20 decision as to appropriate --

21 Q Does it also require you to ascertain the
22 customers --

23 A Yes.

24 Q Is that similar if not identical to the part of
25 2860(b)16?